

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SAN ANTONIO FIREFIGHTERS' ASSOCIATION,
LOCAL 624,
Plaintiff

v.

THE CITY OF SAN ANTONIO, TEXAS, AND
MAYOR RON NIRENBERG, ANDREW SEGOVIA,
RAMIRO SALAZAR, and WILLIAM McMANUS, in
their official capacities

Defendants

No. 5:18-cv-00745-XR

Defendants' Motion to Dismiss Official-Capacity Defendants

To the Honorable Court:

Pursuant to FED. R. CIV. P. 12(b)(6), Defendants the City of San Antonio, Texas; Mayor Ron Nirenberg; Andrew Segovia, Ramiro Salazar; and William McManus, in their official capacities file this Original Answer to the Complaint of Plaintiff San Antonio Firefighters' Association, Local 624 and hereby:

1. Plaintiff sues the City of San Antonio, alleging that certain policies of the City are unconstitutional and seeking declaratory and prospective injunctive relief. ([ECF No. 1 ¶ 69–73](#))
2. Plaintiff has also named as Defendants the City's Mayor, City Attorney, Library Director, and Chief of Police, all in their official capacities. ([ECF No. 1 ¶ 5–8](#)) Official capacity claims against these individuals are properly treated as claims against the City of San Antonio. *See Kentucky v. Graham*, [473 U.S. 159](#), 166 (1985) (“[A]n official-capacity suit is, in all respects other than name, to be treated as a suit against the entity. It is not a suit against the official personally, for the real party in interest is the entity.”). Given the fact that the City is a named Defendant, the inclusion of the individual defendants sued in their official capacity is duplicative and unnecessary, and they should therefore be dismissed.

3. In *Kentucky v. Graham*, the U.S. Supreme Court noted that “[t]here is no longer a need to bring official capacity actions against local government officials [because] under *Monell* [v. Dep't of

Soc. Servs., [436 U.S. 658](#) (1978)]. . . local government units can be sued directly for . . . injunctive or declaratory relief.” [473 U.S. at 167](#) n. 14 (1985).

4. The Fifth Circuit has held that when the municipality is a defendant, district courts should dismiss duplicative claims against municipal officers sued in their official capacity: “The district court was also correct in dismissing the allegations against all of the municipal officers and two of the employees of the Corps of Engineers in their official capacities, as these allegations duplicate claims against the respective governmental entities themselves.” *Castro Romero v. Beeken*, [256 F.3d 349](#), 355 (5th Cir. 2001).

5. Relying on this authority, this Court has previously dismissed with prejudice claims against official-capacity defendants where the City was separately named as a defendant: “[G]iven the City of Converse is a named Defendant, the claims against Defendants Villegas, Lambert, and Suarez in their official capacity are redundant.” *Niemietz v. City of Converse*, No. 5:17-CV-401-XR, [2017 WL 4295234](#), at *9 (W.D. Tex. Sept. 25, 2017).

6. This Court should do the same here. Since the City of San Antonio is a named Defendant, the claims against the Mayor, City Attorney, Library Director, and Chief of Police in their respective official capacities are all redundant and should be dismissed with prejudice.

Defendants therefore pray that this Court grant this motion and dismiss all claims against Defendants Mayor Ron Nirenberg; Andrew Segovia, Ramiro Salazar; and William McManus, in their official capacities. Defendants pray for such other and further relief, whether at law or in equity, to which they may show themselves to be justly entitled.

DATED: September 11, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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